IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 23 of 2002

Sri Mahabeer Prasad
S/o Sri Radha Krishan,
R/o Mithi Behari,
Dehradun.

…….. Revisionist.

Versus

1. Hon'ble Competent Authority, Dehradun.
2. State of Uttar Pradesh
(Now State of Uttaranchal) through
competent authority under the [Urban Land
(Ceiling & Regulation) Act, 1976], D.Dun.

…… Respondents

Mr. J.C. Joshi, Sr. Advocate assisted by
Mr. Chetan Joshi, learned counsel of r the revisionist.
Mr. Subhash Upadhyaya, learned S.C. for the State.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the revisionist and learned Standing Counsel for the State.

2. This revision is directed against the order dated 16.02.2002, passed in Misc. Case No. 325 of 1997 by learned District Judge, Dehradun, whereby the application of the appellant/revisionist under Section 5 of the Limitation Act, 1963 was rejected.

3. Learned counsel for the revisionist argued that the proceedings under the Urban Land (calling and Regulation) Act, 1976, in respect of the land in question were without jurisdiction. In this connection, he has drawn attention of this Court to the principle of law laid down in *Atia Mohammadi Begum Vs. State of U.P., reported in (1193) 2 Supreme Court Cases 547.* The order dated 15.11.1988, appears to have been passed by the competent authority under aforesaid Act in

case No. 60 of 1988 under Section 8(4) of the Urban Land (Ceiling and Regulation) Act, 1976. For the reasons best known to the revisionist, he did not prefer any appeal against said order before the District Judge, Dehradun. The appeal was filed only after nine years with application of condonation of delay in filing the appeal. The ground mentioned in the delay condonation application is that the revisionist (appellant before the lower appellate court) came to know of the proceedings only in 1997 when the officials of the State made attempts to take possession of the land in question. However, the record shows that the present revisionist took part in the proceedings before the competent authority. Not only this, the impugned order shows that when the competent authority passed its order dated 11.08.1988, revisionist Mahabeer Prasad, signed said order acknowledging the order passed in the proceedings. In the circumstances, the revisionist had failed before the lower appellant court to file the appeal for long nine years without any satisfactory reason. The explanation given by the revisionist before the lower appellate court was not accepted by said court as the explanation was contrary to the record.

4. This Court in its revisional jurisdiction, cannot interfere with the factual satisfaction of the lower appellate authority as to the sufficiency of explanation given for condonation of delay, unless the same is erroneous in law. This Court is in agreement with the view taken by the learned District Judge, Dehradun that the appellant/ revisionist has failed to explain long nine years delay in filing the appeal.

5) Accordingly, the revision is liable to be dismissed. The same is dismissed in limine.

(Prafulla C. Pant, J.)

Dt. 18.04.2006
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